HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2451 OF 2005.

Shashank Sadashiv Wagh. ...Applicant.

V/s.

The State of Maharashtra. ...Respondent

Shri Nitin Pradhan with S.D.Khot, for applicant.

Shri V.B.Konde-Deshmukh, APP for respondent.

Shri Uday Warunjikar, for depositors.

CORAM: A.M.KHANWILKAR,J
DATE : MAY 3, 2005

P.C. :-

1. Heard counsel for the parties including Shri Warunjikar, for depositors.

2. The applicant has been arrested on 27th March, 2005, in connection with the offence registered with the MIDC Kupwad Police Station, Sangli being C.R.no.11 of 2005. Looking at the FIR as a whole, the offence appears to be essentially, one of irregular dealings with bank finance by the applicant who happened to be the Managing Director for period between 6th April, 2001 to 17th March, 2003.

3. In so far as the applicant is concerned, the

allegations seem to be that he favoured M/s Krupa Containers by extending finance, in which his wife is allegedly one of the director. According to the applicant, however, amount which has been advanced to M/s. Krupa containers was about Rs. 32 Lakhs, out of which only Rs.6 Lakhs is yet to be recovered. The fact that the said M/s Krupa Containers has refunded substantial part of the loan amount, that will make no difference if the offence is made out on the basis of material on record which indicates complicity of the applicant in the commission of the offence. On going through the relevant record with the assistance of learned APP, it is seen that although section 467 of the I.P.Code has been applied to the present case which is punishable with life imprisonment or imprisonment or other descriptive of which may extent to 10 years and also be liable to pay fine, there is no material on record to indicate that the applicant was responsible for forging document or of valuable security. In other words, so far as the applicant is concerned, it is doubtful whether section 467 can be invoked against him. As of now, there is no charge of criminal conspiracy invoked by the prosecution against the accused.

4. Viewed in this perspective, as all other

offences, even assuming attracted, are punishable with maximum punishment upto 7 years. The applicant is already in custody since 27th March, 2005 and was extensively interrogated for four days before arrest and four days after his arrest while in police custody. Thereafter, investigating agency has not insisted for interrogation of the present applicant. The nature of evidence to establish offence is essentially documentary evidence. In other words, for the nature of offence, for which the applicant can be proceeded against being punishable maximum with imprisonment upto 7 years and the applicant has already remained in custody for more than one month and has been extensively interrogated so far and for the time being his interrogation is not necessary, as is accepted by the learned APP on instruction, the applicant deserves to be enlarged on bail on following strict condition.

(i) The applicant is directed to be released on bail in connection with the C.R.No.11 of 2005 registered with MIDC Kupwad Police Station, Sangli, on executing personal bond in the sum of Rs.1 Lakh with two local sureties in like amount.

(ii) The applicant shall not influence any prosecution witnesses or tamper with prosecution

evidence, in any manner, whatsoever.

(iii) The applicant shall not enter district Sangli without prior intimation to the Investigating Officer, except for reporting before the Investigating officer for the purpose of investigation in the case, in terms of the directions in this order.

(iv) The applicant shall report before the Investigating Officer on Wednesday and Sunday every week between 10 a.m. to 1 p.m. till filing of the chargesheet or on such other day and time and place as may be required by the Investigating Officer for the purpose of Investigation of the case.

(v) The applicant shall inform the place of residence to the investigating officer within one week from the date of release.

(vi) The applicant shall deposit passport with Investigating Officer, if any. In case, the applicant does not possess any passport, shall file affidavit before this court, disclosing that fact. Unless this condition is complied, the

order releasing him on bail will not be given effect.

(vii) The applicant shall cooperate the investigating officer for the purpose of investigation of the case.

(viii) This order will enure in favour of the applicant till filing of the chargesheet.